

EXHIBIT G

WALTER MURPHY

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BOURNE CO.,)
)
)
 Plaintiff,)
)
 vs.) No. 07 CIV. 8580 (DAB)
)
 TWENTIETH CENTURY FOX FILM)
 CORPORATION, FOX BROADCASTING)
 COMPANY, TWENTIETH CENTURY FOX)
 TELEVISION, INC., TWENTIETH)
 CENTURY FOX HOME ENTERTAINMENT,)
 INC., FUZZY DOOR PRODUCTIONS,)
 INC., THE CARTOON NETWORK, INC.,)
 SETH MAC FARLANE, WALTER MURPHY,)
)
 Defendants.)
 _____)

DEPOSITION OF
WALTER MURPHY
TAKEN ON
TUESDAY, MARCH 11, 2008

Reported by:

Daryl Baucum, RPR, CRR, CBC, CSR No. 10356

WALTER MURPHY

4 (Pages 10 to 13)

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<p>1 A. Let me correct that.</p> <p>2 Q. Sure.</p> <p>3 A. I scored with the orchestra in the spring of</p> <p>4 the year 2000. The song was actually written probably</p> <p>5 six or eight months prior to that so that the animators</p> <p>6 could animate to a guide musical track, which is usually</p> <p>7 the way it's produced.</p> <p>8 Q. And what did you do to produce that version of</p> <p>9 the song that was used six months before its early</p> <p>10 version that you just discussed before you produced the</p> <p>11 score for the orchestra?</p> <p>12 A. I was sent a copy of the script and I read</p> <p>13 through it, and when I came to the page that had the</p> <p>14 song lyrics, the parody lyrics, I used that and sat down</p> <p>15 and wrote a tune to fit those lyrics.</p> <p>16 Q. And did you actually transcribe that tune at</p> <p>17 that point?</p> <p>18 Did you produce anything in writing for that</p> <p>19 purpose?</p> <p>20 A. Yes, I -- I am sure I wrote down -- I made a</p> <p>21 pencil sketch of the melody that I composed.</p> <p>22 Q. And what was done with that piece of writing?</p> <p>23 How was it used in the production of "Family</p> <p>24 Guy"?</p> <p>25 A. I recorded a piano version of the melody that I</p>	<p>1 Seth, and he liked it and then he came over and sang a</p> <p>2 vocal demo.</p> <p>3 Q. Do you know if -- did anybody from "Family Guy"</p> <p>4 ever discuss with you using the exact music from "When</p> <p>5 You Wish Upon A Star"?</p> <p>6 A. No.</p> <p>7 Q. When you were given your instructions to write</p> <p>8 the song, were you instructed to write something that</p> <p>9 would evoke the particular melody of "When You Wish Upon</p> <p>10 A Star"?</p> <p>11 A. Actually, after I -- afterwards. I wrote this</p> <p>12 particular version of the melody and Seth sang it, and</p> <p>13 sometime after that -- I can't remember the sequence of</p> <p>14 events exactly -- either Seth or his partner, David</p> <p>15 Zuckerman, mentioned to me that they would like the</p> <p>16 melody to be even closer to the Disney song, and I said</p> <p>17 that I had to be careful because I have an agreement</p> <p>18 with Fox that I provide unique music, and so I didn't</p> <p>19 want to use any portion of the Disney song.</p> <p>20 And later on, Seth sang another version of it,</p> <p>21 and changed a few notes here and there to make -- to</p> <p>22 make the average person realize that this was going to</p> <p>23 be a parody.</p> <p>24 Q. And he did he do that by making the song closer</p> <p>25 to "When You Wish Upon A Star," the melody of "When You</p>
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<p>1 had written and Seth MacFarlane sang a vocal -- a what's</p> <p>2 called a rough vocal so that -- so I suppose he could</p> <p>3 listen to it afterward and then play it for the other</p> <p>4 producers of the show and that that's -- that's what I</p> <p>5 did at first.</p> <p>6 Q. And did you play piano on that recording?</p> <p>7 A. Yes, I did.</p> <p>8 Q. Does Seth MacFarlane read music?</p> <p>9 A. Yes.</p> <p>10 Q. How exactly were you approached with this</p> <p>11 particular assignment to write "I Need A Jew"?</p> <p>12 Who approached you from "Family Guy" and gave</p> <p>13 you this assignment?</p> <p>14 A. I believe it was Seth or someone in Seth's</p> <p>15 office either called or just sent me the script, which</p> <p>16 it happens either way when production schedules get</p> <p>17 busy, sometimes, you know, there is an envelope in my</p> <p>18 mail box and it's a script and it's obviously for me to</p> <p>19 read.</p> <p>20 Q. And were you given any particular instructions</p> <p>21 with respect to the song on how to write the melody?</p> <p>22 A. Not at first. I read the script. I realized</p> <p>23 that this was a parody of a Disney-esque -- sweet</p> <p>24 Disney-esque song and I just sat down and wrote that</p> <p>25 tune and played it, made a copy of it and played it for</p>	<p>1 Wish Upon A Star"?</p> <p>2 A. Yeah, he changed a few notes at the beginning</p> <p>3 of each verse that made it a little closer so that</p> <p>4 the -- he felt that the average audience member would</p> <p>5 realize that this is a parody.</p> <p>6 Q. So Seth wrote that part of the final melody as</p> <p>7 opposed to you?</p> <p>8 A. Yes.</p> <p>9 Q. In the process of writing the first version</p> <p>10 that you produced, did you reference any -- did you look</p> <p>11 at or reference any sheet music for "When You Wish Upon</p> <p>12 A Star"?</p> <p>13 A. No.</p> <p>14 Q. Did you listen to any recordings of "When You</p> <p>15 Wish Upon A Star"?</p> <p>16 A. No.</p> <p>17 Q. Did you have in your mind any recollection of</p> <p>18 the melody line for "When You Wish Upon A Star"?</p> <p>19 A. Yes.</p> <p>20 Q. And was it your intent to even in your first</p> <p>21 version evoke "When You Wish Upon A Star"?</p> <p>22 A. My first intention was to try and write</p> <p>23 something sweet and Disney-esque, without -- without</p> <p>24 actually utilizing any material from "Wish Upon a Star"</p> <p>25 to try and convey the joke in the script.</p>

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5 (Pages 14 to 17)

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<p>1 Q. And what joke was that?</p> <p>2 A. That it was a parody of a scene from a Disney</p> <p>3 movie, and the sweet melody coupled with the ridiculous</p> <p>4 lyrics and the absurd imagery on the screen would be</p> <p>5 funny.</p> <p>6 Q. And in your view, your first version of that</p> <p>7 accomplished that goal.</p> <p>8 A. Yes, I think my first version evoked the</p> <p>9 feeling of a Disney song.</p> <p>10 Q. As you were writing the melody for "I Need A</p> <p>11 Jew," were you particularly using the same melodic</p> <p>12 rhythm for "When You Wish Upon A Star"?</p> <p>13 A. Melodic rhythm.</p> <p>14 Q. Putting aside the pitch, just, you know, the</p> <p>15 rhythm of the melody.</p> <p>16 A. I wasn't aware of that or intending on doing</p> <p>17 that.</p> <p>18 Q. Can I have the folder for Exhibit 2, please.</p> <p>19 I would like to show you a document we have</p> <p>20 marked as Exhibit 2. This was a document that was</p> <p>21 produced in discovery as MURPHY 2 through MURPHY 15.</p> <p>22 (Plaintiff's Exhibit 2 was</p> <p>23 marked for identification.)</p> <p>24 BY MR. FAKLER:</p> <p>25 Q. I will ask you to take a look at that and tell</p>	<p>1 Q. And what sort of changes would he typically</p> <p>2 make?</p> <p>3 A. Well, any singer performing a song generally</p> <p>4 tries to make it his or her own by changing inflections</p> <p>5 or length of notes or even actually changing notes. I</p> <p>6 don't -- I haven't heard a recording of the song in</p> <p>7 quite a while. So I can't honestly tell you this is</p> <p>8 notated perfectly as to the way he actually sung it.</p> <p>9 Q. Would that also include, for example, if he</p> <p>10 didn't come in right on the first beat --</p> <p>11 A. Sure.</p> <p>12 Q. -- of a phrase?</p> <p>13 A. Sure.</p> <p>14 Q. Or if he slowed down a little bit or sped up a</p> <p>15 little bit --</p> <p>16 A. Right.</p> <p>17 Q. -- in the portion of a song?</p> <p>18 Do you view those sort of changes as changing</p> <p>19 the -- substantially changing the song that you wrote?</p> <p>20 A. Well, I guess it's a -- it's hard to say it's a</p> <p>21 judgment call. Depends on how much someone changes the</p> <p>22 melody. It's hard to quantify unless you are talking</p> <p>23 about a specific recording of a specific song and then I</p> <p>24 could tell you how differently, you know, it's performed</p> <p>25 than the original. I don't think any song is performed</p>
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<p>1 me what it is.</p> <p>2 A. This is a copy of my original orchestration</p> <p>3 right here. You have the conductor's score of my</p> <p>4 original orchestration for the song as it appeared on</p> <p>5 the soundtrack of the show.</p> <p>6 Q. Okay. So was this the final version of the</p> <p>7 score that you used for the recording session?</p> <p>8 A. Yes.</p> <p>9 Q. Is this an accurate notation of the song as you</p> <p>10 wrote it -- I should say the final version of the song</p> <p>11 as you wrote it?</p> <p>12 A. As far as the orchestra parts, yes. The</p> <p>13 melody, I would have to actually listen to a recording</p> <p>14 to see if any of the rhythm or the notes were changed by</p> <p>15 Seth vocal.</p> <p>16 I mean I can't honestly say that without</p> <p>17 listening to it, but I can tell you that the</p> <p>18 orchestration part is exactly the way it appears on the</p> <p>19 soundtrack.</p> <p>20 Q. Did you play the piano on the recording?</p> <p>21 A. No.</p> <p>22 Q. Now, when you mentioned the possibility of the</p> <p>23 vocal melody changing, that would be based on Seth's</p> <p>24 performance of it?</p> <p>25 A. Yes.</p>	<p>1 precisely the way it's notated by any particular singer.</p> <p>2 Q. And you don't -- do you remember what this</p> <p>3 song -- whether there were significant changes?</p> <p>4 A. The difference that I can tell you from memory</p> <p>5 is that the beginning of every phrase --</p> <p>6 Q. Right.</p> <p>7 A. -- is different from my original.</p> <p>8 Q. We're not -- we're on this document.</p> <p>9 A. Right.</p> <p>10 Q. Just from that to the recording --</p> <p>11 A. To the recording.</p> <p>12 Q. -- is what I am talking about.</p> <p>13 A. I think it's -- I would honestly have to listen</p> <p>14 to his final recording to tell you exactly what would be</p> <p>15 different. I don't remember.</p> <p>16 Q. If a performer changes -- makes significant</p> <p>17 changes to the melody of a song like that in the process</p> <p>18 of their performance, are they generally considered to</p> <p>19 have authored a new version with you of the song?</p> <p>20 A. No.</p> <p>21 MR. ZAVIN: Objection only to the extent you</p> <p>22 said "like that." There is no evidence that that exists</p> <p>23 here.</p> <p>24 MR. FAKLER: That's fair enough. That's fair</p> <p>25 enough.</p>

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6 (Pages 18 to 21)

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<p>1 BY MR. FAKLER:</p> <p>2 Q. If a performer does change a melody</p> <p>3 significantly in the course of performing it for a</p> <p>4 recording, have you typically recognized that person as</p> <p>5 being a joint creator with you of the song of the music?</p> <p>6 MR. ZAVIN: Objection.</p> <p>7 MR. FAKLER: You can answer my question.</p> <p>8 THE WITNESS: I have never had that occasion in</p> <p>9 anything I have written.</p> <p>10 BY MR. FAKLER:</p> <p>11 Q. So you have never had a performer change it so</p> <p>12 much that you considered it a whole new version of the</p> <p>13 song.</p> <p>14 A. Let me think. Not that I can think of.</p> <p>15 Q. So if somebody were to have done that, is that</p> <p>16 something that would stand out in your mind, giving them</p> <p>17 joint authorship credit?</p> <p>18 A. I would imagine.</p> <p>19 MR. ZAVIN: Objection.</p> <p>20 BY MR. FAKLER:</p> <p>21 Q. You can answer.</p> <p>22 A. Well, it's never happened, so.</p> <p>23 Q. That's a fair clarification.</p> <p>24 Now, I would like to have you take a look at</p> <p>25 what we have marked as Plaintiff's Exhibit 3, and that</p>	<p>1 Q. When you discussed finally, you know,</p> <p>2 presenting a version of the song to Seth to sing that he</p> <p>3 eventually rejected and -- was this that version that</p> <p>4 you presented to Seth?</p> <p>5 A. Yes.</p> <p>6 Q. And did you ever record a version of this?</p> <p>7 Did you ever record, rather -- I am sorry, let</p> <p>8 me start that over.</p> <p>9 Did you ever record this version of "I Need A</p> <p>10 Jew"?</p> <p>11 A. Yes, with Seth MacFarlane -- this was the</p> <p>12 first -- yes, this is the first version that we recorded</p> <p>13 of just piano and voice.</p> <p>14 Q. And what are the differences between this</p> <p>15 version and the final version that was recorded?</p> <p>16 A. Well, again, I think I would have to listen to</p> <p>17 a recording of the final version to tell you all the</p> <p>18 nuances of difference between this and what was recorded</p> <p>19 on the soundtrack.</p> <p>20 Q. Can you tell me the differences between that</p> <p>21 and the score in Exhibit 2?</p> <p>22 A. Well, yeah.</p> <p>23 MR. ZAVIN: Objection; when you say "between</p> <p>24 that," are you saying between the recording or between</p> <p>25 Exhibit 3 and Exhibit 2?</p>
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<p>1 was produced in discovery as MURPHY 1.</p> <p>2 (Plaintiff's Exhibit 3 was</p> <p>3 marked for identification.)</p> <p>4 BY MR. FAKLER:</p> <p>5 Q. And I would like to ask you what this document</p> <p>6 is.</p> <p>7 A. This is a copy of my original, what's called a</p> <p>8 lead sheet of the melody of the song from --</p> <p>9 Q. And this document and also Exhibit 2 that we</p> <p>10 just looked at, you retrieved these from your personal</p> <p>11 files?</p> <p>12 A. Yes.</p> <p>13 Q. And you kept these in the ordinary course of</p> <p>14 performing your --</p> <p>15 A. Yes.</p> <p>16 Q. -- composer services for "Family Guy"?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Is this the original version of the song</p> <p>19 that you wrote that you talked about earlier?</p> <p>20 A. Yes.</p> <p>21 MR. ZAVIN: Objection; only I think he said the</p> <p>22 original version was a pencil version. He's testified</p> <p>23 to that.</p> <p>24 MR. FAKLER: Fair enough.</p> <p>25 BY MR. FAKLER:</p>	<p>1 MR. FAKLER: No, no, between Exhibit 3 and any</p> <p>2 Exhibit 2. Thank you.</p> <p>3 THE WITNESS: Okay. Give me a minute and I</p> <p>4 will look.</p> <p>5 BY MR. FAKLER:</p> <p>6 Q. Sure.</p> <p>7 A. You have these stapled out of order.</p> <p>8 Q. I apologize for that. We had them stapled in</p> <p>9 the order they were Bates produced to us.</p> <p>10 A. Well, the essential difference is the melody in</p> <p>11 the first measure is changed in the score version,</p> <p>12 and -- well, the bar numbers don't match up because</p> <p>13 there is no introduction here, but this measure and --</p> <p>14 the first and third measures of the melody are changed</p> <p>15 each time the verse happens. That's the essential</p> <p>16 difference. Now, there could be more minor inflections</p> <p>17 or differences in his vocal recording which, you know, I</p> <p>18 can't tell you that.</p> <p>19 Q. Sure.</p> <p>20 A. Yeah.</p> <p>21 Q. Could you look in the folder for Exhibit 4,</p> <p>22 please.</p> <p>23 I would like to show you a document that we</p> <p>24 have marked as Plaintiff's Exhibit 4. The document was</p> <p>25 produced in discovery at FOX 256 through 259.</p>

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7 (Pages 22 to 25)

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<p>1 (Plaintiff's Exhibit 4 was marked for</p> <p>2 identification by the court reporter</p> <p>3 and is attached hereto.)</p> <p>4 BY MR. FAKLER:</p> <p>5 Q. And can you tell me what this document is?</p> <p>6 A. This is a copy of the musical cue sheet for</p> <p>7 that particular episode.</p> <p>8 Q. And what is this document used for?</p> <p>9 A. It's used for royalty credit with the</p> <p>10 performance rights society, either ASCAP or BMI, so that</p> <p>11 composers and authors receive proper credit.</p> <p>12 Q. And is that for when the episode is shown --</p> <p>13 broadcast on TV --</p> <p>14 A. Yes.</p> <p>15 Q. -- or when it's publicly performed?</p> <p>16 A. That's correct.</p> <p>17 Q. Were you involved in the creation of this cue</p> <p>18 sheet?</p> <p>19 A. I didn't create the cue sheet but I looked at</p> <p>20 it when it was completed.</p> <p>21 Q. So did you approve it the form that it was sent</p> <p>22 out in?</p> <p>23 A. I did.</p> <p>24 Q. If you look down at the entries for "I Need A</p> <p>25 Jew", entry six through nine, can you tell me why the</p>	<p>1 A Jew"?</p> <p>2 A. Yes.</p> <p>3 Q. And does breaking out the other parts of "I</p> <p>4 Need A Jew" as separate pieces in six, eight and nine,</p> <p>5 does that have any impact on the royalties you were</p> <p>6 paid?</p> <p>7 A. No.</p> <p>8 Q. And do you know if there's -- if that is</p> <p>9 consistent with BMI rules as far as creating cue sheets?</p> <p>10 A. Sure.</p> <p>11 Q. Your testimony is it is consistent?</p> <p>12 A. It's consistent, yes.</p> <p>13 Q. Could I have the Exhibit 5 folder, please.</p> <p>14 A. Also, I might point out that the interlude was</p> <p>15 notated as BI, which is background instrumental, and the</p> <p>16 other sections of the song are notated as VV, which is</p> <p>17 visual vocal, which is a different rate of payment from</p> <p>18 BMI. So all the more reason to specify which portions</p> <p>19 of the song have a visual vocal and which don't.</p> <p>20 Q. And what's the difference in the rates?</p> <p>21 A. I don't recall. It's less money if there's not</p> <p>22 a visual vocal.</p> <p>23 Q. I would like to show you this document which we</p> <p>24 have premarked as Plaintiff's Exhibit 5. It was</p> <p>25 produced in discovery at FOX 297.</p>
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<p>1 song is broken out in several different pieces.</p> <p>2 A. Because I recorded the song in four pieces for</p> <p>3 recording convenience. They're four segueing pieces of</p> <p>4 music. I often do that just for expediency on the</p> <p>5 scoring stage. And the two middle sections are actually</p> <p>6 a musical -- I think maybe just the second section is a</p> <p>7 musical interlude. I have to look and see.</p> <p>8 Q. You are talking now line number seven?</p> <p>9 A. Line number seven, yeah, doesn't have a vocal.</p> <p>10 There was a sequence in the middle of the song on screen</p> <p>11 where Peter goes out the window and tumbles and winds up</p> <p>12 on the ground, and so I did a musical interlude with no</p> <p>13 vocal during that section.</p> <p>14 Q. And you gave that section a different title --</p> <p>15 A. Yes.</p> <p>16 Q. -- on that sheet?</p> <p>17 A. Yes, I called it "Interlude."</p> <p>18 Q. And why did you do that?</p> <p>19 A. Just because it wasn't specific -- it was kind</p> <p>20 of based on the -- a little bit on the song, but not</p> <p>21 really. I mean a lot of the other material was new</p> <p>22 material, musical material.</p> <p>23 Q. So the way that it's notated on this music cue</p> <p>24 sheet for the purpose of the performing royalties,</p> <p>25 "Interlude" is treated as a different song than "I Need</p>	<p>1 (Plaintiff's Exhibit 5 was marked for</p> <p>2 identification by the court reporter</p> <p>3 and is attached hereto.)</p> <p>4 BY MR. FAKLER:</p> <p>5 Q. Can you, please, tell me what this document is.</p> <p>6 A. It's a breakdown of the instrumentation used on</p> <p>7 the recording stage on the day that we recorded the</p> <p>8 orchestra music for this episode of "Family Guy."</p> <p>9 Q. And did you participate in preparing this</p> <p>10 document?</p> <p>11 A. No, the music preparation team or the music</p> <p>12 copyists did this. They do this as a convenience to the</p> <p>13 composer so that when you're on the recording stage, you</p> <p>14 can realize how many instruments you need for each</p> <p>15 particular piece of music so you can release some</p> <p>16 musicians early if it they finish sooner and that sort</p> <p>17 of thing.</p> <p>18 Q. I see.</p> <p>19 Did you use this in the production of the song,</p> <p>20 the recording?</p> <p>21 A. Yes.</p> <p>22 Q. Do you participate in any way in -- well, let</p> <p>23 me take a step back.</p> <p>24 Is preexisting music ever used in connection</p> <p>25 with the "Family Guy" episodes?</p>

8 (Pages 26 to 29)

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1 A. Yes, there are licensed pieces of music.
 2 Q. And do you participate in any way in the
 3 licensing or clearance process?
 4 A. No.
 5 Q. Were there any preexisting songs considered for
 6 use in the Weinstein episode?
 7 A. That, I don't know.
 8 Q. Do you recall whether there was any
 9 consideration of using either the song "Mrs. Robinson"
 10 or "The Sounds of Silence"?
 11 A. I don't know.
 12 Q. Can I ask you to take a look at Exhibit 4
 13 again, the cue sheet.
 14 And if I ask to you look at entry 27 on the
 15 third page, does that indicate that you wrote a piece of
 16 music that you called "Mrs. Rabinowitz"?
 17 A. It does.
 18 Q. Do you recall what that piece of music was?
 19 A. I don't. I mean it must refer something to --
 20 the title must have something to do with a joke or some
 21 segment of the script at that point but I don't remember
 22 what the music was like or . . .
 23 Q. Do you remember being asked to write that piece
 24 of music?
 25 A. Not specifically, but it must have been called

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1 for in the script.
 2 Q. In writing the music for "I Need A Jew" --
 3 well, taking the version in the score, does that song
 4 musically make fun of "When You Wish Upon A Star"?
 5 A. I think it does.
 6 Q. And how does it do that?
 7 A. Well, I think it evokes the feeling of a
 8 Disney-esque song or a segment of a Disney movie. It's
 9 very sweet and almost saccharin sounding orchestration,
 10 and as we spoke earlier, I think coupled with the
 11 ridiculous lyric makes it funny.
 12 Q. But putting aside the lyric, just musically,
 13 how would it make fun of "When You Wish Upon A Star"?
 14 A. I think it would make fun of "Wish Upon A Star"
 15 in the context of the show, but when you see -- when you
 16 hear this piece of music and you see it in the context
 17 of the episode, I think the audience would get that it's
 18 a joke.
 19 Q. But as far as musically, without the content of
 20 the lyric or the surrounding content of the episode,
 21 just taking this as a piece of music, how would it
 22 musically poke fun at "When You Wish Upon a Star"?
 23 A. Well, it would be hard to say. I think if a
 24 trained musician listened to it, they might get -- I
 25 mean out of context, if a trained musician listened to

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1 it without the melody --
 2 Q. I mean with the melody.
 3 A. With the melody.
 4 Q. But without the lyric.
 5 A. Without the lyric.
 6 Yes, I think -- you know, it's hard to --
 7 context very often has a lot to do with comedy, and I
 8 think if a trained musician listened to it, they would
 9 maybe get the joke. If the average person on the street
 10 heard it out of context, they might.
 11 Q. How would they -- how would an average person
 12 get a joke from just from the music?
 13 A. Because I think it evokes the feeling of the
 14 way "When You Wish Upon A Star" did.
 15 Q. But where is the humor or the mocking in just
 16 evoking a musical style?
 17 Do you think that every time musically you
 18 evoke another style you are always making fun of that
 19 style?
 20 A. It's hard to -- it's hard to answer that
 21 because I think lyrics are very important.
 22 Q. No, no, I understand, and I understand -- I am
 23 asking you to, you know, separate out the lyrics.
 24 If you are saying that you can't articulate it
 25 without the lyrics, that's fine, that's a fine answer,

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1 but I am asking you to answer that question.
 2 Can you articulate how without the lyrics
 3 this -- would the average listener, the nonspecialized
 4 listener, would take the musically this as making fun of
 5 "When You Wish Upon A Star"?
 6 A. It's hard to answer. I mean I think people
 7 that saw the show, got the joke, but comedy has to do
 8 with context.
 9 Q. Right.
 10 A. Usually.
 11 Q. But I am asking you now just musically, can you
 12 explain to me any musical device that you used in this
 13 that a casual listener would recognize as making fun of
 14 "When You Wish Upon A Star"?
 15 A. I think the melody would make someone make the
 16 connection.
 17 Q. But would they -- what connection?
 18 A. The connection that this is a joke, a spoof, if
 19 you want, of the song, the Disney song "Wish Upon A
 20 Star".
 21 Q. What part of the melody would do that?
 22 A. I don't know if there is a specific part. I
 23 mean it would be in its entirety. I mean how could you
 24 excerpt these notes or these notes or these notes and
 25 say those are the specific things that make somebody

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<p>1 recognize, that you are making fun of something?</p> <p>2 Q. I guess what I am asking --</p> <p>3 A. It's hard to quantify.</p> <p>4 Q. What is the funny part? I understand your</p> <p>5 testimony that overall the song evokes "When You Wish</p> <p>6 Upon A Star." I understand that, but I am not asking</p> <p>7 about how the song evokes it.</p> <p>8 I am asking specifically how would -- what part</p> <p>9 of the song "I Need A Jew" would the listener recognize</p> <p>10 as not just evoking but specifically ridiculing or</p> <p>11 making fun of "When You Wish Upon A Star."</p> <p>12 A. I would have to say the entire song.</p> <p>13 Q. But not one particular phrase or part?</p> <p>14 A. I think I would have to answer the whole song.</p> <p>15 I don't know if you can excerpt certain portions of it</p> <p>16 and say okay, that's it right there, that's the thing.</p> <p>17 Q. But can you as you sit here excerpt a certain</p> <p>18 part and point to it? It's just the whole song?</p> <p>19 A. I would say the whole song, yeah.</p> <p>20 Q. And how is the whole song making -- not just</p> <p>21 saying evoking but particularly ridiculing the original?</p> <p>22 Musically, how is it doing that?</p> <p>23 MR. ZAVIN: Objection; I don't think he said</p> <p>24 "ridiculing." I think that is your word.</p> <p>25 MR. FAKLER: That is my question and he can</p>	<p>1 definition of it.</p> <p>2 Q. I am asking what your -- when you have used it</p> <p>3 in the past.</p> <p>4 A. "Ridicule," I think it's not just makes fun. I</p> <p>5 mean -- I think it's more negative, has a more negative</p> <p>6 connotation.</p> <p>7 Q. Okay.</p> <p>8 A. So my -- I think that this song parodies and</p> <p>9 spoofs, if you will, "Wish Upon a Star." I don't think</p> <p>10 it ridicules "Wish Upon a Star," in my estimation.</p> <p>11 Q. And by making fun of, you talk about evoking</p> <p>12 it.</p> <p>13 A. Well, it's making the viewer realize that this</p> <p>14 song -- yes, evokes the memory of "Wish Upon a Star"</p> <p>15 when they see it in the show and for all the reasons</p> <p>16 that we talked about.</p> <p>17 Q. Can I have the folder for Exhibit 1, please.</p> <p>18 You can put that back.</p> <p>19 (Plaintiff's Exhibit 1 was</p> <p>20 marked for identification.)</p> <p>21 BY MR. FAKLER:</p> <p>22 Q. Are you aware that -- do you know who</p> <p>23 Dr. Ferrara is, a musicologist?</p> <p>24 A. No.</p> <p>25 Q. Are you aware that an expert report has been</p>
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<p>1 answer it.</p> <p>2 MR. ZAVIN: Then objection.</p> <p>3 BY MR. FAKLER:</p> <p>4 Q. Okay. Do you believe that the entire song in</p> <p>5 addition to making fun also ridicules "When You Wish</p> <p>6 Upon A Star"?</p> <p>7 A. I don't know that. I don't know if that's the</p> <p>8 right word. I mean, you know, that's also in the ear of</p> <p>9 the listener and in the context of the show if people</p> <p>10 think that this is satire or parody or ridicule.</p> <p>11 Q. But, again, I am asking now -- not in the</p> <p>12 context of the show, just musically, just musically, do</p> <p>13 you believe that "I Need A Jew" musically, using just --</p> <p>14 does it musically, alone, does it ridicule "When You</p> <p>15 Wish Upon A Star"?</p> <p>16 A. I would say parodies "When You Wish Upon A</p> <p>17 Star."</p> <p>18 Q. But does it ridicule "When You Wish Upon A</p> <p>19 Star"?</p> <p>20 A. Well, explain what you mean by "ridicule."</p> <p>21 Q. Have you ever used the term "ridicule"?</p> <p>22 A. Yes.</p> <p>23 Q. What do you mean it to -- when you say it,</p> <p>24 what does it mean?</p> <p>25 A. Well, I mean I don't know the dictionary</p>	<p>1 submitted by the defendants in this case by an expert</p> <p>2 musicologist?</p> <p>3 A. I heard something to that effect but I don't</p> <p>4 know by whom.</p> <p>5 Q. Have you reviewed his report?</p> <p>6 A. No.</p> <p>7 Q. Have you reviewed any reports that our side has</p> <p>8 produced, the musicological?</p> <p>9 A. No.</p> <p>10 MR. FAKLER: Those are all the questions I,</p> <p>11 have.</p> <p>12 MR. ZAVIN: Let's take a three-minute break.</p> <p>13 (The deposition was concluded at</p> <p>14 10:18 a.m.)</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>